

REMARKS / ARGUMENTS

In response to the Office Action mailed February 12, 2007, the Examiner's claim rejections have been considered. Applicants respectfully traverse all rejections regarding claims 31-61 and earnestly solicit allowance of these claims.

1. Claim Rejection – 35 U.S.C. § 112 ¶ 1 – Claim 60

The Examiner rejected claim 60 under 35 U.S.C. § 112 ¶ 1 as being unpatentable for lack of written description. Specifically, the Examiner asserted that the limitation, “wherein the deactivated cards are not removed from the gaming grid” is not supported by the Specification. This rejection is traversed.

Claim 60 has been amended such that the limitation, “are not removed from the gaming grid” has been replaced with “cannot be selected again.” The amended limitation is described in the Specification at least at p. 10, ll. 15-17.

Therefore, Applicants respectfully request that the rejection be withdrawn.

2. Claim Rejections – 35 U.S.C. § 103(a) – Claims 31-61

The Examiner rejected claims 31-61 under 35 U.S.C. § 103(a) as being unpatentable over Monte Carlo in view of Kelly, and further in view of Same Game. This rejection is traversed.

Independent claim 31, as amended, includes the following features that are not disclosed, taught, or suggested in the references of record:

shuffling any remaining game pieces and presenting a new grouping of the remaining game pieces,

the shuffling causing the remaining game pieces to be in a new random order, and

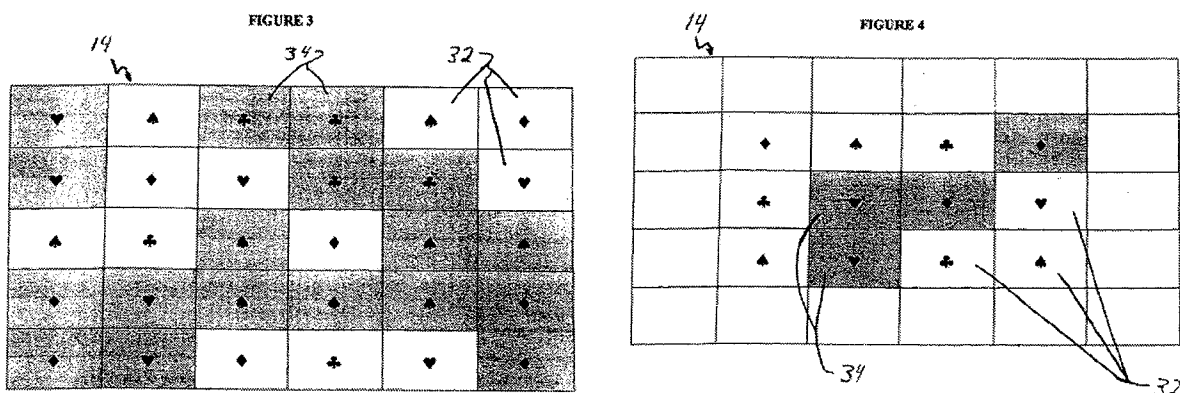
the new grouping of the remaining pieces being in the new random order.

(Emphasis added). The Examiner asserted, “[c]learly, the step[] of moving the pieces in Monte Carlo and Jawbreaker to [sic] down to fill in the spaces of any removed cards meet[s] the step[] of ‘shuffling’ or rearranging the cards.” (Office Action, p. 2, ll. 26-27, emphasis added).

Shuffle, consistent with the Specification, should be construed as (a) “manipulate (as a group of playing cards or tiles) with the real or ostensible purpose of causing a later appearance in random order (as in dealing or drawing)” or (b) “to push or move about, back and forth, or from one place to another.”¹ The Examiner’s citation of Monte Carlo and Jawbreaker for “shuffling” appears to be based on the shuffle definition, “to push or move about, back and forth, or from one place to another.” In other words, the shuffling of Monte Carlo and Jawbreaker causes the remaining game pieces to remain in the same order as prior to the shuffle. By contrast, the “shuffling” of amended claim 31 is directed to causing the remaining game pieces to be in a “new random order.”

An embodiment directed to the claimed “shuffling causing the remaining game pieces to be in a new random order, and the new grouping of the remaining pieces being in the new random order” is described in the Specification at least at p. 10, l. 18 – p. 11, l. 24. Briefly stated, the “non-selected game pieces 32” of Fig. 3 (see below) having a particular order are shuffled and then presented in the “new random order” of Fig. 4 (see below).

Initially, as shown in Fig. 3, the non-selected pieces 32 have an order of spade, spade, diamond, diamond, heart, heart, spade, club, diamond, diamond, club, heart (left to right, top row first). Subsequently, as shown in Fig. 4, the order of the shuffled and presented remaining pieces is diamond, spade, club, diamond, club, heart, diamond, heart, spade, heart, club, spade—a new random order.



¹ WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY UNABRIDGED 2108 (2002), emphasis added; see definition 3 of the transitive verb form because the claimed “remaining game pieces” is the object of the claimed “shuffling.”

In sum, claim 31 is not obvious over Monte Carlo in view of Kelly, and further in view of Same Game because Monte Carlo's and Jawbreaker's moving about the unselected cards in the same order does not disclose, teach, or suggest the claimed features, "the shuffling causing the remaining game pieces to be in a new random order, and the new grouping of the remaining pieces being in the new random order."

Applicants note that claims 32-59 are dependent claims that depend from independent claim 31. In light of the arguments submitted with regard to claim 31, Applicants respectfully submit that dependent claims 32-59 are not obvious over Monte Carlo in view of Kelly, and further in view of Same Game because these references, alone or in combination, fail to disclose, teach, or suggest all the claimed limitations. Moreover, these dependent claims include additional features that render these claims not obvious over Monte Carlo in view of Kelly, and further in view of Same Game.

Likewise, independent claims 60 and 61 are not obvious over Monte Carlo in view of Kelly, and further in view of Same Game for similar reasons as set forth with regard to claim 31.

In conclusion, Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection of claims 31-61 be withdrawn.

CONCLUSION


Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims 31-61 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

The Commissioner is hereby authorized to charge the fees indicated in the Fee Transmittal, any additional fee(s) or underpayment of fee(s) under 37 C.F.R. §§ 1.16 and 1.17, or to credit any overpayments, to Deposit Account No. 194293, Deposit Account Name STEPTOE & JOHNSON LLP.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 734-3200. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

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